

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**September 23, 1999**

**IN RE:**

**BELLSOUTH TELECOMMUNICATIONS, INC.  
TARIFF TO ADD LANGUAGE DESCRIBING  
LIABILITY FOR DAMAGES OR ERRORS CAUSED  
BY UNAUTHORIZED COMPUTER INTRUSION**

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**DOCKET NO. 98-00108**

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**ORDER DENYING TARIFF**

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This matter came before the Tennessee Regulatory Authority ("the Authority") at the regularly scheduled Authority Conference held on June 2, 1998, for consideration of BellSouth Telecommunications, Inc.'s ("BellSouth") Tariff to Add Language Describing Liability for Damages or Errors Caused by Unauthorized Computer Intrusion. The Tariff was originally filed with the Authority on February 17, 1998, with a proposed effective date of March 19, 1998. The Tariff's purpose was to limit the potential liability of BellSouth for damages caused by unauthorized computer intrusion, errors resulting from transmission of data over voice-grade lines and errors caused by the inability of the Company's systems to process unusual date requirements (e.g., problems related to Y2K).

**FILE**

On March 10, 1998, at a regularly scheduled Authority Conference, the Authority suspended the BellSouth Tariff for a period of ninety (90) days. On March 18, 1998, the Office of the Attorney General, Consumer Advocate Division ("Consumer Advocate") filed a Petition to Intervene and Complaint or Call for Contested Case Hearing (hereafter the "Petition to Intervene") in this proceeding. As originally filed, the Consumer Advocate's Petition to Intervene did not contain sufficient information to qualify as a Complaint under Rule 1220-1-1-.05(1) nor to permit the Authority to convene a contested case, nor had the Authority, on its own motion, initiated such a contested case under Tenn. Code Ann. § 65-4-117. The Consumer Advocate filed an Amended Petition to Intervene on March 19, 1998.

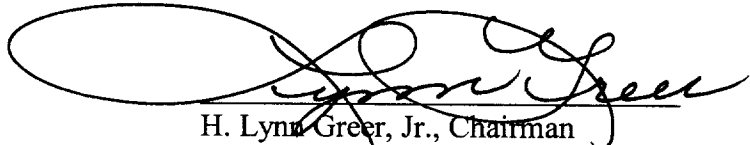
This matter was next considered at a regularly scheduled Authority Conference held on June 2, 1998. At that Conference, a majority of the Directors found that instead of the submission of liability-limiting language through a tariff, BellSouth had much more suitable methods and procedures to accomplish this objective. The liability of any entity pursuant to a contract or agreement is an issue that must be determined by the facts and circumstances of each individual case; this is also true relative to the liability of a utility. The waiver of such liability is better suited as a negotiated term between the parties to an individual agreement, not as a provision in a general tariff. Therefore, as it is simply not appropriate to include such language in a utility's general tariffs, a majority of the Directors<sup>1</sup> voted to deny this tariff, and due to such action, the Petition to Intervene filed by the Consumer Advocate was rendered moot.

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<sup>1</sup> Director Kyle moved to suspend the tariff for an additional 90 days and spoke in favor of opening a contested case and allowing the Consumer Advocate Division to Intervene.

**IT IS THEREFORE ORDERED THAT:**

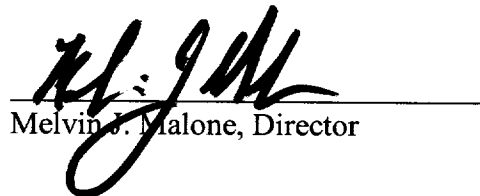
1. BellSouth Telecommunications, Inc.'s Tariff No. 98-00108 is denied; and
2. The Petition to Intervene and Complaint or Call for Contested Case Hearing filed by the Consumer Advocate Division on March 18, 1998, as amended on March 19, 1998, is therefore rendered moot.



H. Lynn Greer, Jr., Chairman


\* \* \*

Sara Kyle, Director



Melvin J. Malone, Director

ATTEST:



K. David Waddell, Executive Secretary

\* \* \* Director Kyle did not concur with the majority.